IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY SECOND DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

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WRIT PETITION NO : 12791 of 2004

Between:

M/s Jaya Diagnostic & Research Centre Ltd,

Medwin Hospitals, Raghava Ratna Towers,
Chirag Ali Lane, Hyderabad,

rep. by its Managing Director Sri B.K. Rao.

..... PETITIONER

AND

1 The E.P.F. Appellate Tribunal, Employees Provident Fund, 60, Skylark Building, 7th Floor, Nehru Place, New Delhi, rep. by Registrar.
2 Assistant Provident Fund Commissioner (Enf), Office of the Regional P.F. Commissioner, Barkatpura, Hyderabad.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, Order or Direction in the nature of Mandamus or otherwise declaring the impugned proceedings of the second respondent bearing No. AP/22401/ENF/C.I.T-4/2004/6783 dated 5-3-2004 and the further coercive action for recovery, as illegal, ultra vires and declare the same as unenforceable pending disposal of the Appeal of the Petitioner before the 1st Respondent bearing No. 424/1/2004.

Counsel for the Petitioner:MR.VILAS V.AFZULPURKAR

Counsel for the Respondent No.1: None appeared
Counsel for the Respondent No.2: Mr.R.N.Reddy, Standing Counsel

The Court at the admission stage made the following ORDER:

Against the order dated 29-01-2004 passed by the second respondent under Section 7-A of the Employee's Provident Funds and Miscellaneous Provisions Act, 1952, (for short 'the Act') the petitioner filed review application under Section 7-B of the Act and the same was rejected on 05-03-2004. Aggrieved by the same, petitioner preferred an appeal before the first respondent-Employees Provident Fund Appellate Tribunal. As the Tribunal is not functioning, the petitioner could not obtain any stay pursuant to the demand made by the respondents. Therefore, petitioner moved this Court by way of present writ petition questioning the orders passed by the second respondent under Sections 7-A and
7-B of the Act.

It is well settled provision that when the statutory appeal filed by the petitioner is pending against the same order, the writ petition cannot be entertained.

Having regard to the facts and circumstances of the case, on petitioner depositing 50% of the amount so demanded, within a period of eight weeks from the date of receipt of a copy of this order, all further steps pursuant to the impugned order are stayed pending disposal of the appeal. On such depositing, the appellate authority shall proceed with the same without insisting for deposit of 75% of the amount. The amount so deposited shall be subject to the result of the appeal filed by the petitioner.

Subject to the above observations, the writ petition is disposed of. No costs.

22nd JULY, 2004.

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To

1 The Registrar, E.P.F. Appellate Tribunal, Employees Provident Fund, 60, Skylark Building, 7th Floor, Nehru Place, New Delhi.
2 Assistant Provident Fund Commissioner (Enf), Office of the Regional P.F. Commissioner, Barkatpura, Hyderabad.

3 Two CD copies.